



Paper No. 5

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JUN 18 2002

OFFICE OF PETITIONS

In re Application of
Viens
Application No.: 10/098,577
Filed: March 14, 2002
Attorney Docket No. 6620

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: DECISION ON
: PETITION
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This is a decision on the petition entitled, "PETITION REGARDING NOTICE OF OMITTED ITEMS," filed April 25, 2002, requesting, in effect, withdrawal of the Notice to File Omitted Item(s) in a Nonprovisional Application (Notice). The petition will be treated under 37 CFR 1.53(e).

The application was deposited on March 14, 2002. On April 17, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that drawing figures 3, 4, and 5 described in the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that drawing figures 3, 4, and 5 be accorded a filing date of March 14, 2002 on the basis that 31 pages of specification, claims, abstract and drawings, including drawing figures 3, 4, and 5, were received in the Patent and Trademark Office (PTO) on March 14, 2002. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing March 14, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 31 pages of specification, claims, abstract and drawings.

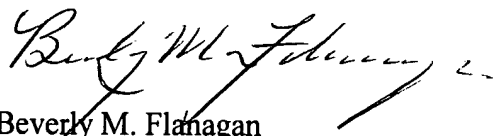
The return postcard constitutes *prima facie* evidence that 31 pages of specification, claims, abstract and drawings were filed on March 14, 2002. MPEP 503. A review of the application file reveals that 21 pages of specification, claims, and abstract are present. Only 7 sheets of drawings are present. Those pages missing correspond to pages containing drawing figures 3, 4, and 5. Accordingly, the request is granted.

Pursuant to petitioner's authorization, the \$130.00 petition fee will be credited to deposit account no. 19-0079.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **March 14, 2002**, using the copies of drawing figures 3, 4, and 5 submitted

with the instant petition. Office records will be corrected to show that 10 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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